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CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF TORTURE AND DETENTION

Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1999/32

Addendum

Communications received from Governments between 15 December 1999 and 15 February 2000

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Introduction

1. The present document contains all government replies received by the Special Rapporteur between 15 December 1999 and 15 February 2000. It is being issued on an exceptional basis to remedy the fact that, owing to the late dispatch of several regular communications, mainly in English, Governments did not have sufficient time to respond to allegations. The Governments concerned were informed of the intention to issue the present addendum by letter dated 24 January 2000, in which they were requested to send outstanding replies by 15 February 2000 in one of the three working languages of the Office of the United Nations High Commissioner for Human Rights. The purpose of this exceptional request was to ensure that they could be circulated during the Commission session in an informal document, the present addendum in the six official languages of the United Nations only being issued after the session, because of the lateness of submission. Replies to communications sent earlier by the Special Rapporteur that were received after the completion of the main report have also been included in this addendum.

Australia

2. The Government reported that the case of the Libyan asylum-seeker and his family (see E/CN.4/2000/9, para. 31) was currently under consideration by the Department of Immigration and Multicultural Affairs and that it would inform the Special Rapporteur of the outcome of the process.

Azerbaijan

3. By letter dated 5 January 2000, the Government responded positively to the request of the Special Rapporteur to undertake a fact-finding mission to the country.

Chile

4. By letter dated 10 January 2000, the Government responded to one of the cases transmitted by the Special Rapporteur on 8 October 1999 (see E/CN.4/2000/9, para. 182).

5. The Government stated that in February 1999 the inmates of the Colina I high security prison had been transferred elsewhere temporarily so that the damage they had done to the prison could be repaired; in the course of the preparatory arrangements and actual transfer process members of the Gendarmería, owing to the resistance of the inmates, used deterrents such as handcuffs and tear gas, injuring some of them. Marcelo Gaete Mancilla's head injury was the result of his detention by members of the Carabineros de Chile. As for Guillermo Ossandón Cañas, it is stated that, like the other inmates, his injuries were the result of his resistance. The relatives of the inmates lodged a complaint with the sixth civil court of major jurisdiction of Santiago against the National Director of the Gendarmería de Chile and the Chief of Security; proceedings were suspended for want of evidence. They then initiated amparo and protection proceedings before the Santiago Court of Appeal, but their appeal was rejected. An in-house administrative investigation concluded that the staff had acted in accordance with established procedures.

Cuba

6. By letter dated 15 February 2000, the Government responded to various cases that the Special Rapporteur had transmitted to it on 12 October 1999.

7. Concerning Milagros Cruz Cano (see E/CN.4/2000/9, para. 337), the Government reported that he had been arrested for a breach of the peace in Havana on 27 November 1998 and brought before the relevant police examining body by which he was warned and fined. The investigation conducted by the Ministry of the Interior found that he had not been ill-treated. According to available information, he obtained a visa and left for the United States on 19 October 1999.

8. Concerning Lázaro Constantin Durán (ibid., para. 338), the Government stated that he emigrated to the United States in 1980 but was deported since he was considered to be undesirable by the United States emigration authorities. Owing to his anti-social conduct and participation in several breaches of the peace he was sentenced by the Havana municipal court to four years' imprisonment, which he began serving on 19 December 1998.

9. The Government stated, in connection with Pablo Fidel Cabrera Bishop (ibid., para. 339) who had a criminal record, that in 1994, when trying to leave the country illegally in order to proceed to the United States, he was intercepted and turned back by the United States authorities. He returned on 28 December 1994, and was imprisoned as a fugitive from justice.

10. Concerning Juan Carlos Herrera Acosta (ibid., para. 340), the Government reported that he has been serving a sentence in the Guantánamo provincial prison since October 1997 for the offence of illegal departure from the country, and added that his conduct is bad.

11. Salvador Tamargo Jerez (ibid., para. 342) was, according to the information provided, sentenced on two occasions to imprisonment, which will end in November 2001, for the offences of causing serious injury and breaking out of prison.

12. Concerning Virgen Milagros Grillot and Ernesto Gala García (ibid., paras. 341 and 338), the Government stated that the law enforcement agencies of the Republic of Cuba have no information about these cases.

France

13. By letter dated 23 December 1999, the Government replied to the allegations transmitted by the Special Rapporteur on 3 September 1999.

14. Concerning the asylum-seekers who arrived in Nouméa in November 1997 (see E/CN.4/2000/9, para. 443), the Government confirmed that about 70 Chinese whose requests for asylum had been rejected by the authorities had taken refuge on the roofs of the buildings in which they had been housed in March 1998. Armed with knives and iron bars, they threatened to blow the buildings up with gas containers. In the circumstances, and in view of the

physical resistance they put up, the order was given to dislodge them by force. However, the Government made it clear that this operation had involved only the means strictly necessary and commensurate with the circumstances. Furthermore, this incident had no (legal) repercussions.

15. Concerning Yogeswaran Narendran, Thirnagnam Thavandi and Mylvaganan Arwanan (ibid., para. 444), the Government stated that after their request for asylum had been rejected, it was decided not to admit them to the territory. Since they refused to comply with this decision they had been obliged to embark. However, the Government denied allegations of ill-treatment. An administrative investigation into the facts revealed that the police officers could not be faulted in any way for the performance of their functions.

16. Concerning the questioning of trade union members in Papeete in September 1995 (ibid., para. 445), the Government indicated that an investigation into the circumstances surrounding their questioning by gendarmes had not so far resulted in any charges being brought.

17. Concerning Abdelkrim Boumlik (ibid., para. 446), the Government confirmed that his parents had lodged a complaint on 2 May 1996. The investigation entrusted to the Police Disciplinary Body (IGPN) revealed that the versions of the facts presented by the police officers and by Abdelkrim Boumlik were contradictory and that, in the absence of objective evidence and a medical examination during the period of detention, it was impossible to determine the origin of his injuries which, according to his first hearing, were the result of falling off his motorbike. On 7 April 1999, the examining magistrate of the Pontoise court of major jurisdiction issued a dismissal order. The Indictment Division of the Versailles Court of Appeal is at present considering an appeal by the party bringing the criminal indemnity action.

18. Concerning Ahmed Hamed (ibid., para. 447), the Government confirms the facts but adds that he had resisted being taken in for questioning following a complaint by the victim of a theft who had indicated him as the person responsible. The Government explained that on 22 October 1997 the Director-General of the National Police had ordered an administrative investigation of this case by the Police Monitoring Service. No professional misconduct could be attributed to the four police officers concerned and as a result the case had been closed by IGPN. No disciplinary sanctions were therefore imposed.

19. Concerning Djamel Bouchareb (ibid., para. 448), the Government indicated that, on 2 November 1998, a police officer was charged with using unlawful violence although no judicial supervision measures were ordered. However, the Government explained that the charge was unrelated to the accusation of torture within the meaning of article 221-1 of the Penal Code.

20. Concerning Claude Serre (ibid., para. 449), the Government stated that, following a dispute with parking police officers, he had been questioned, handcuffed and taken to a hospital in order to determine his blood alcohol level. During the investigation, Claude Serre had, according to the Government, admitted that he had resisted being taken in for questioning and had added that the police officers had not deliberately used violence against him. The Bobigny Procurator had therefore closed the case.

21. Concerning Tarek Said (ibid., para. 450), the Government indicated that his allegations were being investigated, that a rogatory commission had been addressed to the Police Monitoring Service and that no charges had so far been brought.

Georgia

22. By letters dated 21 December 1999 and 11 January 2000, the Government sent information concerning the allegations transmitted by the Special Rapporteur in November 1999.

23. The Government also informed the Special Rapporteur that 1,654 complaints had been examined by the Central Apparatus for the Inspection of Staff in 1998 and that 202 police officers had subsequently been removed from their position. In particular, five were expelled for exceeding their authority and for physical abuse and four had received prison sentences.

24. Concerning Aka (Alexander) Sulava (see E/CN.4/2000/9, para. 455), the Government indicated that he had lodged a complaint against three unknown persons with the Chief Department of the Police on 1 February 1999. Criminal proceedings were instituted with the Didube District Department on 7 April 1999. The preliminary investigation was eventually ended on the grounds that Aka Sulava failed to name the persons he incriminated.

25. Concerning Josef Topuridze (ibid., para. 456), the Government reported that he had lodged a complaint with the Procurator of Tbilisi against two officers of the traffic police, alleging that they had physically abused him. He had complained to a senior official at the headquarters of the traffic police, by whom he was verbally abused. The case was transferred by the Ministry of the Interior to the Procuracy of the Isani district, which subsequently declared the complaint invalid. Criminal proceedings were instituted against the traffic police and against Josef Topuridze for purposely giving false evidence. The latter has initiated further proceedings for damages, which are currently ongoing.

26. Concerning Badri Tsindeliani (ibid., para. 457), the Government indicated that criminal proceedings had been instituted in the Procuracy General of Georgia on 7 October 1997 which had led to the finding that he had been physically abused by the inspector of the investigation department, a police lieutenant and a lieutenant junior. According to the Government, he had been beaten with a belt and a blunt object on his feet and other parts of his body and had sustained blows to his face, eyes and ears, as a result of which he had lost consciousness. Subsequent proceedings instituted in the Signani District Court had found the three police officers in breach of provisions of the Criminal Code of Georgia. On 3 February 1998, the Prosecutor General had appealed to the head of the Tsoni Police Department of the Ministry of Internal Affairs to take measures to eliminate the facilitation of the conditions for crime conducted by policemen of the same department, inter alia by one officer who had also been on duty when Badri Tsindeliani was assaulted.

27. Concerning Gogi Shiukashvili (ibid., para. 458), the Government indicated that his mother had lodged a complaint with the Prosecutor General on 8 May 1998. On 7 October 1998, the criminal proceedings were referred to Gldani District Procuracy for further investigations and from 27 January 1999, criminal proceedings pursuant to article 187, part 3 (excess of authority)

of the Criminal Code had been conducted at the Tbilisi Procuracy. According to the Government, the investigation had been prolonged mainly because of the contradictory evidence provided by Gogi Shiukashvili, who had stated on 22 June 1999 that he had been periodically tortured by 20 persons whilst in preliminary detention, but had been unable to identify them. In a note to the Tbilisi Procuracy dated 2 September 1999, he indicated that he had been physically abused by the policemen who had brought him to the Gldani District Department. He had undergone a medical examination at the court on 27 August 1998 which led to the conclusion that the injuries to his face were too old for any conclusions to be drawn. The Government stated that in subsequent interrogations, police officers, fellow inmates and Gogi Shiukashvili himself had denied that beating and torture had taken place. On 16 August 1999, the case was dropped on the basis that no person had been identified against whom criminal proceedings could be instituted.

28. Concerning Malkhaz Kumsiashvili (ibid., para. 459), inquiries had been made by the Ministry of Internal Affairs, as well as the Tbilisi Procuracy, into his allegations of ill-treatment. On 4 September 1998, criminal proceedings were not proceeded with, on the grounds that there existed no signs of the crime. On 14 September 1998, the Procuracy of Georgia repealed the previous decision and reinstated the proceedings with special directions. According to the Government, the preliminary investigation eventually ended on 20 September 1998, due to the fact that Malkhaz Kumsiashvili had left Tbilisi and had avoided any further investigation.

29. Concerning the death of Sergo Kvaratskhelia (ibid., para. 460), the Government reported that, on 8 March 1998, criminal proceedings had been instituted in the Procuracy of the Tsalendjikha region for aggravated murder. Five people had subsequently been sentenced to between 10 and 15 years for kidnapping and murdering him with extreme cruelty and provoking mass disorder. One person was sentenced to "compulsive medical means of suppression". Five other persons are currently being sought for kidnapping.

30. Concerning Levan Gagua (ibid., para. 461), the Government indicated that criminal proceedings regarding a premeditated murder had been instituted against him and others on 17 March 1998 in Tbilisi Saburtalo District Procuracy and that he had lodged a complaint with the Ministry of Internal Affairs and the Saburtalo District Procuracy against members of the Saburtalo Police Department and the Chief Police Department in Tbilisi. On 19 June 1998, the District Procuracy refused to institute criminal proceedings on the grounds that there existed no corpus delicti. This decision was subsequently affirmed by the Procuracy of Georgia. Levan Gagua was sentenced to 10 years' imprisonment for premeditated murder by the Supreme Court of Georgia.

31. Concerning Jemal Teloyan (ibid., para. 462), the Government indicated that his complaint invoking extortion, unlawful detention and maltreatment had not led to the institution of criminal proceedings by the Tbilisi Procuracy due to the absence of a corpus delicti. This decision was further confirmed by the Procuracy of Georgia.

32. Concerning Jaba Ioseliani and 13 other defendants (ibid., para. 463), who had claimed to have been beaten or otherwise subjected to ill-treatment during interrogations in pre-trial

detention, the Government reported that they had been visited by the trial Deputy Procurator General and the Deputy Secretary of the National Security Council of Georgia and questioned about physical abuse. All the defendants but one had denied having suffered any physical abuse. After their initial allegations of ill-treatment, the court had commenced an investigation which found that there existed no indications of torture.

India

33. By letter dated 22 December 1999, the Government responded to a case which was transmitted by the Special Rapporteur on 11 November 1998 (see E/CN.4/1999/61, para. 306).

34. Concerning the death of Dilip Kumar Chakravarty, 10 police officials were arrested, charged, suspended from office and held in judicial custody. Compensation of Rs. 2,00,000 has been paid to his widow. Upon order of the National Human Rights Commission, the amount is eventually to be recovered from the police officers found responsible. Charges against an Assistant Commissioner of the police were discontinued due to the absence of corroboration by a prosecution witness. Further petitions by his widow to the Sessions Court and a subsequent appeal to the Delhi High Court were dismissed on 3 March 1998 and 16 April 1998 respectively. A Special Leave petition against the order of the Delhi High Court is currently pending before the Supreme Court of India.

Indonesia

35. By letters dated 23 December 1999 and 11 January 2000, the Government reported that, in an effort to promote national reconciliation based on democracy and respect for human rights, it had amnestied and dropped criminal charges against 196 persons, inter alia from the provinces of Papua, also known as Irian Jaya, Aceh and East Timor. All political prisoners are said to have thus been released. The Government enclosed the names of persons released.

Israel

36. By letter dated 20 December 1999, the Government responded to an urgent appeal sent by the Special Rapporteur on 7 December 1999 regarding draft legislation recently submitted to the Knesset on the interrogation methods of Israel's Security Agency (see E/CN.4/2000/9, para. 656).

37. According to the Government, the draft legislation on Criminal Procedure (Powers and Special Interrogation Methods for Security Offences) (1999), which was introduced as a private member's bill, was neither sponsored nor supported by the Government. Furthermore, the Government had initiated a draft bill in October 1999 which foresaw the amendment of the Penal Code by introducing a new article (article 277A) rendering the infliction of torture as defined in the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment a criminal offence punishable by a 10-year term of imprisonment or, where the torture resulted in an aggravated injury, a term of 20 years. According to the proposal, a public official who does not reasonably act to prevent the infliction of torture of which he possesses knowledge, is liable for a 3-year term of imprisonment.

38. With respect to the ruling of Israel's Supreme Court in September 1999, the Government noted that while the Supreme Court ruling prohibited in absolute terms the use of the practices in question, it did not prohibit the possibility of enacting legislation which would infringe upon a suspect's liberty, as long as it complied with the requirements of Israel's Basic Law, that is to say with the "values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required". Finally, the Government indicated that it would study the recommendations of the Special Governmental Committee, which was headed by the Deputy to the State Attorney and the Deputy to the Attorney-General and which had been appointed to examine means of implementing the aforementioned Supreme Court ruling.

Japan

39. By letter dated 15 February 2000, the Government responded to cases transmitted by the Special Rapporteur on Torture in November 1999.

40. Concerning Kazuo Uchiyama (see E/CN.4/2000/Add.1, para. 677), the Government stated that he had been sentenced to two years' imprisonment with labour on 7 September 1993, a sentence which he did not appeal. He was transferred from Chiba prison to Fuchu prison on 21 October 1993 and released from there after the expiration of his sentence on 7 September 1995. On 30 August 1993, the superintendent had reprimanded him in the presence of another officer for a disciplinary offence, to which he had reacted angrily. According to the Government, Kazuo Uchiyama subsequently shouted at the superintendent and attempted to punch him. He was restrained with metal handcuffs behind his back by the superintendent and other officers. He was then taken to a protection room. The Government stated that protection rooms have a window which cannot be opened and no furniture, apart from a water faucet, toilet and ventilating fan, so as not to endanger the inmate's life. According to the Government, he continued struggling and screaming. He was then restrained with his face down and placed in leather handcuffs consisting of two leather rings attached to a leather belt around the waist which fixed his right hand in front of his body and his left hand behind his back. He was placed in mataware pants for his own convenience. The Government asserted that the prison staff had used only the minimum force necessary to protect themselves and to maintain order in the communal life of other inmates. On 29 November 1993, Kazuo Uchiyama filed a lawsuit for damages at the Chiba District Court for assault by Chiba prison officers. According to the Government, he sent a letter withdrawing the lawsuit to the Chiba District Public Prosecutor's Office on 16 December 1993. On 7 March 1996, he filed a renewed lawsuit for damages, alleging that he had been assaulted by the officers at the Chiba District Court. His case was pending at the time of the government reply.

41. Concerning Yoshitaka Hiura (ibid., para. 678), the Government stated that he had been sentenced to five years and six months' imprisonment with labour on 10 April 1991 for a drugs offence. His appeal was dismissed on 28 October 1991 and he was transferred from Tokyo Detention House to Yokohama Prison on 6 December 1991. The Government indicated that during his detention he had been punished with solitary confinement several times for periods varying from 10 to 40 days. On several occasions, he was also restrained with leather handcuffs and detained in a protection room. The Government provided the Special Rapporteur with specific details on each of these punishment periods. The Government stated that Yoshitaka Hiura had not been placed in solitary confinement for minor infractions but that he

was not suitable for group treatment. The prison authorities had carefully examined each time the necessity of placing him in solitary confinement and had only used force against him, applied handcuffs and placed him in the protection room, in compliance with laws and regulations, when he was likely to act violently and injure himself. Yoshitaka Hiura filed a suit at the Tokyo District Court which was rejected on 25 February 1999. He appealed and the case was pending at the Tokyo High Court at the time of the government response. He also filed a complaint with the Yokohama District Public Prosecutor, who decided on 10 December 1999 not to institute proceedings.

42. Concerning Zhou Bizhu (ibid., para. 679), the Government stated that she had been detained in the Tokyo Detention House on 2 April 1997 as a defendant accused of violating immigration laws. On admission to the detention facility, she underwent a medical examination by a doctor and was informed about the procedures for receiving medical care. The procedures entailed that every detainee was asked twice a week whether they wanted to see a doctor and that doctors could be seen any time. The medical examination found inter alia that Zhou Bizhu was suffering from stomach pains and serious vomiting caused by her pregnancy, but that she was not suffering from abdominal pain. The doctor recommended that she should be fed by intravenous drip infusions. On 3 April 1997 she was given three intravenous drug infusions. The intravenous cannula was removed on the same day upon her request not to be given further infusions. On 4 April, Zhou Bizhou was placed on a normal diet and infusions were no longer found to be necessary. On 6 April, she complained of a pain in her lower back and diarrohea. Her doctor advised that she should be kept under continuous observation. At the Kukuyabashi Gynecological Hospital she was told by a doctor that the heartbeat of her foetus could not be felt. A subsequent ultrasonic tomography and a urine test at Shorakudo Hospital led to the diagnosis of possible foetal death, which was subsequently confirmed by a further examination on 25 April. On the same day, her sentence was suspended and she was released from Tokyo Detention House. Zhou Bizhu is suing the Tokyo Metropolitan Government as well as the Tokyo Detention House for medical negligence in relation to the treatment administered and the examination received at Kikuyabashi jail. Her lawsuit for damages was still pending at the Tokyo District Court at the time of the government reply.

43. Concerning Yahaya Radwan Allam (ibid., para. 680), the Government stated that he had complained about an itch affecting his whole body on 20 September 1993, diagnosed as "most probably scabies", for which he had received medical treatment and from which he had completely recovered by 6 January 1994. He was moved from his cell to another single cell on 27 October 1993 for the purpose of interrogation in solitary confinement after he had been caught talking with another detainee in an adjacent cell. The Government denied that he had been placed in an unsanitary cell since cells were cleaned by inmates themselves and prison staff, pursuant to the Prison Law, and since intensive sterilization could be carried out on request. On 17 March 1994, he separated bound legal documents into volumes without submitting a request form to the prison authorities as required, thereby committing a disciplinary offence. He was reprimanded and shortly thereafter threatened prison officers, who subsequently restrained him and placed him in a protection room for one day. He saw a doctor during and after confinement in the protection room who found abrasions on his left arm and bruises on the left side which seemed consistent with the force used. No other injuries were found. The Government stated that he had complained of pus and decreased audibility in his right ear on 10 December 1993. He had subsequently been diagnosed by an

otorhinolaryngologist with otitis externa in his right ear. He is pursuing a lawsuit for damages, which was pending at the Tokyo District Court at the time of the government reply. He also filed a complaint with the Tokyo Public Prosecutor's Office, which decided on 12 July not to prosecute. A request for an appeal hearing was dismissed by the Tokyo District Court on 8 August 1995.

Malaysia

44. By letter dated 4 February 2000, the Government sent information concerning the allegations transmitted by the Special Rapporteur in November 1999 (see E/CN.4/2000/9, paras. 726-727).

45. Concerning Dr. Munawar Anees, the Government confirmed that he had been arrested on 4 September 1998 under the Internal Security Act and that he had been convicted on 19 September 1998 of an unnatural offence under section 377 of the Penal Code. The Government further stated that Dr. Munawar Anees had pleaded guilty to the unnatural offence of having allowed himself to be sodomised by Anwar Ibrahim and that he was appealing against the conviction and sentence. The Government denied that he had been held in incommunicado detention and averred that he had at all times been allowed communication with the investigators, especially with regard to matters of his health and nutrition. The Government further stated that he had never been subjected to any coercion but had voluntarily admitted a homosexual relationship with Anwar Ibrahim and had voluntarily provided graphic details of sexual acts. The Government denied that Dr. Munawar Anees had at any time been deprived of sleep and stated that investigations and questioning had been carried out in accordance with the principle of fairness and the Lock Up Rules. The Government asserted that he was at all times treated in a polite manner, that his hair had been cut ordinarily, in accordance with the Lock Up Rules, and that he had been placed in a proper cell with sufficient ventilation and the necessary bedding. The Government denied that Dr. Munawar Anees had been stripped naked, but he had been asked to remove his wearing apparel in accordance with the Lock Up Rules in order to ensure that there were no injuries on his body or parts of his body and that he was not holding any weapons which could have been dangerous in the circumstances.

46. Concerning Sukma Darmawan, the Government declared that he had been arrested on 6 September 1998 and had been detained for 13 days. It denied that he had been held in incommunicado detention as he had been able to communicate with investigators and other persons via the investigators. The Government further stated that on 19 September 1998 he had pleaded guilty "for having allowed himself to be sodomised by Anwar Ibahim". After conviction he had been transferred to the Bukit Aman federal police headquarters pursuant to his own request. He was released on bail pending his appeal to the High Court, which was dismissed on the basis that he had voluntarily pleaded guilty. The Government dismissed allegations of maltreatment as false and baseless, and merely an afterthought to suit his claim that his confession and guilty plea had been involuntary and obtained under duress. The Government stated that he had not been subjected to prolonged interrogation, but that questioning had been carried out in accordance with the Lock Up Rules. He had not been threatened with indefinite detention under the Internal Security Act, but had at all times been treated in a polite manner and had not been stripped naked but had been asked to remove his clothing in order to ensure that he bore no injuries or dangerous weapons. The Government

further stated that he had been placed in a proper cell with sufficient ventilation and the necessary bedding. The Government concluded that since all the allegations were false ab initio, there existed no need for any form of investigation, prosecution or imposition of sanctions. The Government further noted that neither Dr. Munawar Anees nor Sukma Darmawan had reported the matter to the police.

Mexico

47. By letter dated 19 January 2000, the Government replied in connection with Mario Santiz Ruiz and/or Manuel Sánchez Ruiz and Sebastián Gómez Gómez and/or Luis Pérez Díaz - cases transmitted by the Special Rapporteur on 5 November 1998 (see E/CN.4/1999/61, para. 478).

48. On 10 June 1998 an operation ordered by a judicial body resulted in a confrontation between police officers and settlers in the El Bosque Municipality, Chiapas, as a result of which two police officers and eight persons lost their lives. The persons arrested included Mario Santiz Ruiz and/or Manuel Sánchez Ruiz and Sebastián Gómez Gómez and/or Luis Pérez Díaz who, according to the information provided by the Government, made contradictory statements in the Government Procurator's Office on suspicion of being zapatistas who were protecting their support bases; they were subsequently arrested by the security forces. The Government denies that any signs of torture were found.

49. Concerning Odilón Ambrosio Antonio, Maximino Sebastián Juárez, Santiago Antonio Antonio and Marcos Antonio Juárez (ibid., para. 462), the Government stated that it had no record of the case.

Morocco

50. By letter dated 30 December 1999, the Government replied to the allegations concerning Mahmoud Boumahdi transmitted by the Special Rapporteur on 3 September 1999 (see E/CN.4/2000/9, para. 784).

51. The Government confirmed that he had lodged a complaint for torture against a police officer in the course of the preliminary investigation concerning misappropriation of funds. Subsequent investigations revealed that his allegations of ill-treatment were unfounded and that he had been brought before the court in perfectly good health. According to the Government, he confessed of his own free will to the acts of which he was accused. The Government indicated that, on 27 April 1999, Mahmoud Boumahdi suffered a heart attack and had been taken to the emergency room of the Hassan II hospital. Placed under surveillance on the order of the Crown Procurator of Dakhla, the latter had questioned him after receiving permission to do so from a doctor. As his health deteriorated later on, he was transferred to the Avicennes hospital at Rabat. According to the Government, the report of the doctor at the Hassan II hospital confirmed that Mahmoud Boumahdi had suffered a hemiplegia and noted the absence of any visible traces of blows or torture. Lastly, the Government stated that Mahmoud Boumahdi had stated during the judicial police hearing on 23 November 1998 that he had been tortured by the "Polisario". He allegedly suffered from serious injuries to the head and back as well as traumatism.

Peru

52. By letter of 3 February 2000, the Government responded to one of the cases communicated to it by the Special Rapporteur on 12 October 1999 (see E/CN.4/2000/9, para. 848).

53. The Government stated that a military investigation had been launched on 28 January 1999 in respect of the navy personnel allegedly responsible for the offences of aggravated abuse of functions and authority against Raúl Teobaldo Miguel Andahua. The case was referred to the Supreme Court which is to rule on questions of jurisdiction since proceedings have also been instituted in the ordinary courts.

Rwanda

54. By letter dated 9 December 1999, the Government replied to the allegations transmitted by the Special Rapporteur in September 1998.

55. After reaffirming its commitment to human rights, the Government indicated the measures it had taken to reduce the prison population; these included the release of juvenile or elderly prisoners, useful work outside the prison and other measures of a similar nature. Special attention was being paid to minors, and those who had not been released were assisted by specially trained legal staff. Prisoners were cared for and health conditions in prisons had improved considerably. Four per cent of the national budget was appropriated for prisons, which were visited regularly by members of the International Committee of the Red Cross and by local and international non-governmental organizations. The Government added that, as 120,000 persons were still in detention, it was making use of the traditional participative system of justice courts called "Gacaca". Lastly, the Government indicated its intention to ratify all international human rights conventions to which Rwanda was not yet party, and in particular the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

56. Concerning Jean-Claude Ntidendereza (see E/CN.4/1999/61, para. 644), the Government confirmed that he had been arrested in 1997 and then released for lack of evidence. At his trial he had not complained of ill-treatment during his imprisonment.

57. Concerning André Safari (ibid., para. 645), the Government stated that he had never been detained at the Shyorongi military camp and had never been ill-treated.

58. Concerning Juvénal Turatsinze (ibid., para. 646), the Government confirmed that he is being detained in the Givosu prison on suspicion of having participated in the genocide. However he is in good health and is not suffering from an eye infection. His trial is proceeding.

Senegal

59. By letter dated 21 December 1999, the Government replied to the allegations transmitted by the Special Rapporteur in September 1998 and September 1999.

60. The Government denied all allegations of ill-treatment (see E/CN.4/1999/61, para. 650) directed against the military in their struggle of 15 years' standing against the Mouvement des forces démocratiques de Casamance (MFDC) which, according to the Government, had allegedly perpetrated a number of atrocities. The Senegalese armed forces, on the other hand, had always respected international humanitarian law.

61. Concerning Sally Traoré (see E/CN.4/1999/61, para. 651), the Government indicated that, although an investigation had been carried out, no information concerning this person had been found in the archives of the southern military zone, and that the Aniack military camp did not even exist at the time the events in question allegedly took place.

62. Concerning Anquiling Diabone (see E/CN.4/2000/9, para. 914), the Government stated that, according to army archives, he was obviously intoxicated, refused to submit to the authorities and gave trouble when police officers tried to search him; however, it refuted allegations of ill-treatment. The allegations made against his family were also said to be groundless.

Spain

63. By letter dated 14 January 2000, the Government replied, enclosing relevant documentation, to the cases communicated to it by the Special Rapporteur in November 1999.

64. Garikoitz Mendioroz Lizárraga (see E/CN.4/2000/9, para. 917) was arrested in Pamplona on 12 January 1999. Assisted by a lawyer, he said that he did not wish to make a statement and would do so only before a judicial authority; he was given medical check-ups during his detention. On 14 January he was transferred to Madrid where, assisted by a lawyer of his choice, he made a statement before central court No. 1 but did not allege ill-treatment; he was released on bail the same day. Asked about his treatment during his detention he replied that it had been correct, except on the first day when he had been beaten about the head and hooded.

65. On 21 March 1998 the Civil Guard arrested Mikel Azurmendi Peñagarikano (ibid., para. 918) on suspicion of murdering the local government member of the People's Party in Sevilla. Since he offered resistance, his arrest involved violence; the same day he was transferred to Madrid where, assisted by an officially-appointed lawyer, he made statements on two occasions. On 25 March he made a statement before the judge who ordered his imprisonment. During his detention he was given seven medical check-ups. Azurmendi Peñagarikano is assisted by four lawyers of his choice. No allegations of ill-treatment were made.

66. Nekane (M. Dolores) Txapartegui Nieves (ibid., para. 919) was arrested on 9 March 1999 in Tolosa; since she resisted arrest, force had to be used in order to handcuff her. She was transferred to Madrid on the same day. During her detention she was asked on three occasions to make a statement with the assistance of an officially-appointed lawyer. On 13 March, assisted by an officially-appointed lawyer, she made a statement before court No. 3, saying that she had "not been ill-treated". She was examined on six occasions by the forensic surgeon whose reports indicated that he found no signs of ill-treatment or that she had been ill-treated; they did,

however, refer to marks left by restraints and finger marks made when she was subdued. Since 22 March 1999 she has been defended and assisted by her lawyers who have not complained that she was ill-treated.

67. The Government stated that Mikel Egibar Mitxelena (ibid., para. 920) was the alleged official of ETA and its supporting movement. In view of the apparently important statement he made in the course of the trial, it reported the case to various international bodies. On 29 July 1999, the Government informed the Working Group on Arbitrary Detention of the case, enclosing relevant documentation. On 14 December 1999 the Working Group examined the complaint and expressed its views on the matter (opinion No. 26/1999).

68. On 2 February 1999 five youths were arrested in Tolosa (ibid., para. 921) as alleged members of a certain group on the basis of a report mentioning only four of them. The Government does not know why Joseba Saralegui Sanz, arrested in the same circumstances, had not been included in the report. Iker Bea Hostein was arrested in the course of an operation against the presumed authors of the attack against the Tolosa courthouse. Transferred to Madrid, he was examined by the forensic surgeon who, in his report, states among other things that "the examination revealed handcuff marks on both wrists". Further medical examinations were conducted on 3 and 4 February. On 4 February 1999, assisted by his lawyer, he made a statement before the judge to the effect that he had been ill-treated during his political detention.

69. Asier Urrestarazu Eguia (ibid., para. 923) was arrested on 2 February 1999. He was transferred to Madrid and, before making a statement before the judge, was given four medical examinations, the reports on which stated among other things that he "had been treated well during his detention". At the end of his statement before the judge he stated, on being asked by his lawyer, that "although he had not been ill-treated at the police station or on police premises, he had been threatened".

70. Concerning Ismael Fakhri Delgado (ibid., para. 923), the circumstances are the same as those described in the case of Bea Hostein. Following his arrest on 2 February, he was given a medical examination and said he had been treated normally. Subsequently he was transferred to Madrid and examined on two occasions by the forensic surgeon, whose report stated, among other things, that "his treatment had been good; indications of handcuff marks on both wrists". On 4 February, in the presence of his lawyer, he stated before the judge that "... [the statement made to the police] had been obtained by means of threats and ill-treatment".

71. Ricardo Peñafiel Echarri (ibid., para. 923) was arrested on 2 February 1999, together with the persons mentioned above. Transferred to Madrid, he was examined on three occasions by the forensic surgeon whose report relates among other things that "I was threatened and beaten about the head"; on 4 February, assisted by his lawyer, he stated before the judge "that he did not acknowledge any of the alleged unlawful activities described in the police declaration since his statement had been obtained as a result of threats and pressure by the police".

72. José Ignacio Armendáriz Izaguirre (ibid., para. 925), Jesús María Gómez Ezquerro and Juan María Echavarri Garro were arrested on 27 March 1998 in a police operation in Pamplona for alleged collaboration with the ETA; the circumstances of their detention were similar. The Government stated that it had received only the complaint of José Ignacio Armendáriz Izaguirre,

who was examined by the forensic surgeon on the day of his arrest. On 28 and 29 March he was again examined when he was transferred to hospital after "having attempted to injure himself". Assisted by an officially-appointed lawyer, he made a statement during his three days' detention. On 30 March 1998, assisted by an officially-appointed lawyer, he made a statement before central examining court No. 1, according to which "he was subjected to physical and psychological ill-treatment although the blow on his head was self-inflicted". He was assigned lawyers of his choice and made a statement before the judicial authorities on 20 October 1998 the record of which says, among other things, that "everything stated in these proceedings was cooked up by the Civil Guard who beat and 'bagged' him ... The statement made at the police station was obtained by torture. The defence denies that the accused is a member of the ETA group. The sentence handed down by the Criminal Division of the National High Court on 24 June 1999 analyses allegations of the ill-treatment the three persons accused - Armendáriz Izaguirre, Gómez Ezquerro and Echavarri Garro. The judge states that nothing in the medical reports, confirmed by the forensic report during the oral proceedings, suggests that they could have been ill-treated in order to obtain their statements". The three persons sentenced, assisted by their lawyers, have appealed to the Supreme Court.

73. Peio De Vega Martín (ibid., para. 926) was arrested on 27 January 1998 and examined on eight occasions during his detention. On 31 January he was examined by the forensic surgeon, who stated that he did not complain of ill-treatment and did not show any signs of having been ill-treated. The same day, assisted by a lawyer of his choice, he made a statement before the judge according to which "on being asked about the way he had been treated by the Civil Guard during his detention, he stated that he had been beaten and threatened". The judge of central examining court No. 5 sent him to prison without bail effective 31 January 1998. Vega Martín is defended by his lawyers and proceedings are pending.

Tunisia

74. By letter dated 24 December 1999, the Government responded to the allegations communicated to it by the Special Rapporteur in September 1999.

75. Concerning Ahmed Ben Salah Taboubi (see E/CN.4/2000/9, para. 1022), the Government indicated that he had been involved in ordinary law cases and had not been ill-treated.

76. Concerning Hédi Sassi (ibid., para. 1023), the Government stated that during his detention in the Tunis civil prison he had made himself conspicuous by his provocative attitude towards the penitentiary administration by refusing to respect prison regulations and frequently going on hunger strike. However, he was not subjected to any form of violence or abusive treatment. This was confirmed by the investigations carried out following the complaint he lodged with the Tunis court of first instance.

77. Concerning Abdelmoumen Belanes, Béchir Abid and Ali Jallouli (ibid., para. 1024), the Government stated that they had been arrested in December 1995 in possession of tracts likely to cause a breach of the peace. They were not ill-treated during their questioning. The

Government added that Abdelmoumen Belanes had once again been arrested in February 1999 for taking part in a joint scheme intended to cause injury to persons and damage property by intimidation and terror and that he was at present in pre-trail detention on the basis of a warrant.

78. Concerning Imène Dérouiche (ibid., para. 1026), the Government stated that she had been sentenced in March 1998 to 15 months' imprisonment for supporting an illegal extremist association, distributing tracts likely to cause a breach of the peace and defamation of judicial bodies; she had been released on 22 August 1999 after having served her sentence in the Manouba civil prison without having been ill-treated.

79. Concerning Lofti Hammami (ibid., para. 1027), the Government indicated that he had been sentenced in February 1998 to 17 months' imprisonment for supporting an illegal extremist association, the distribution of tracts likely to cause a breach of the peace and defamation of judicial bodies; he had been released on 9 August 1999 after serving his sentence and had not been ill-treated.

80. Concerning Nèjib Hosni (ibid., para. 1028), the Government confirmed that he had been sentenced, that he had been released on parole on 14 December 1996, and that at no time had he been ill-treated. According to the Government, the national bar president had publicly expressed his satisfaction at the way the trial had unfolded, and no request for an investigation had therefore been made.

Turkey

81. By letter dated 9 February 2000, the Government responded to cases sent by the Special Rapporteur in November 1999.

82. Concerning 50 persons from Tilkiler and four other villages in the Kahramanmaras province (see E/CN.4/2000/9, para. 1041), the Government stated that 53 persons had been taken into custody between 10 and 20 June 1999 on grounds of providing shelter and assistance to the Kurdistan Workers' Party (PKK). Of the 53 persons, 34 were arrested and 19 subsequently released. The Government stated that medical reports issued from the beginning of their custody until their appearance before the court revealed that none of the persons detained had been subjected to torture or any other inhuman treatment.

83. Concerning Vasfi Karakoç (ibid., para. 1042), the Government stated that he had been detained by the Directorate of Security of Izmir on several occasions. On 6 April 1998, he had lodged a complaint with the Directorate-General of Security of Izmir against a police officer for ill-treatment during his detention, which was subsequently annulled due to lack of sufficient evidence. He was again detained on 31 August 1998, but was released soon after. According to the Government, Vasfi Karakoç had made a statement after his suicide attempt on 2 September 1998 to the effect that he was not complaining about anyone, and his son had made a declaration to the same effect after his father's death. The Government stressed that Vasfi Karakoç had not lodged any complaints following his detention on 31 August 1998.

84. Concerning Deniz Özcan (ibid., para. 1043), the Government indicated that he had been among 32 people taken into custody on 29 February 1996 for participation in illegal

demonstrations on the premises of Istanbul University. He was released on 5 March 1996 following interrogation. On 12 May 1996, he was arrested when he was among 76 people carrying placards, brochures and posters in favour of illegal organizations. He was released as no evidence was found indicating his membership in these organizations. On 1 May 1997, he was again taken into custody, but released on 2 May 1997 by the Office of the Chief Prosecutor. The Government stated that Deniz Özcan was not detained on grounds of his relation to the case of Metin Göktepe, but on grounds of his participation in illegal activities.

85. Concerning Ali Serkan Eroglu (ibid., para. 1044) the Government confirmed that he was found hanging from a belt around his neck in a toilet at the Faculty of Literature of the Aegan University. According to the Government, the investigation launched under the auspices of the Chief Prosecutor of Bornova/Izmir was still continuing at the time of the reply. A further investigation was also being carried out by the Chief Investigator of the Police. The Government indicated that further information would be provided to the Special Rapporteur in due time.

86. Concerning Gazali Turan (ibid., para. 1045), who, according to the information received by the Special Rapporteur, is a woman, but whom the government reply indicates to be a man, the Government indicated that he had been arrested on 21 March 1999 in Izmir during pro-PKK demonstrations. Medical reports issued in March 1999 revealed that he had not been subjected to torture. His case was pending at the time of the reply.

87. Concerning Ali Ekber Öz, his wife Nuran Öz (ibid., para. 1047), Mahmut Yurekli, Besime Öz and Hatice Öz, the Government indicated that they had been taken into custody on 2 October 1994 on the testimonies of arrested members of the PKK on the grounds of their involvement with the PKK. Hatice Öz was found not to be involved and was released on 3 October. Upon permission of the Office of the Chief Prosecutor, the custody period for the remaining detainees was extended to 11 October 1994, when they were transferred to the legal authorities. On the same day, Besime Öz was released and Ali Ekber Öz, Nuran Öz and Mahmut Yürekli were arrested. Also on 11 October, a medical report was issued which revealed that none of the detainees had been subjected to torture or ill-treatment.

88. Concerning the three boys aged 10, 11 and 12 (ibid., para. 1049), the Government stated that they had been arrested when they had attempted to enter a house with the aim of burglary. Before being interrogated, they were sent to the Institution of Forensic Science and were transferred with their medical reports to the Office of the Chief Prosecutor of Küçükçekmece/Istanbul, where they were subsequently released. The Government indicated that information on the security personnel who allegedly ill-treated the children would be forwarded to the Special Rapporteur in due time.

89. Concerning Halil Ibrahim Okkal (ibid., para. 1053), the Government stated that the law enforcement personnel who had committed ill-treatment had been sentenced to a term of 10 months' imprisonment by the Court of Appeal on 24 March 1999.

90. Concerning 16 juveniles and young people (ibid., para. 1055) who were reportedly arrested at Manisa Police Headquarters between 26 December 1995 and 5 January 1996, the Government stated that the decision of the State Security Court of Izmir to sentence 10 young persons aged between 19 and 25 years to a total of 76 years, 3 months and 20 days of

imprisonment on the ground of their membership of the DHKP/C and participation in illegal activities had been quashed by the Court of Appeal. The suspects had subsequently applied to the European Court of Human Rights. On 12 October 1998, the Court of Appeal also overturned the ruling of the Criminal Court of Manisa which had cleared the law enforcement personnel of allegations of torture and ill-treatment and which had led to their release on 11 March 1998. Although the Criminal Court of Manisa subsequently insisted on its decision to acquit, the General Council of the Court of Appeal once again overturned its decision. The Court of Appeal affirmed its position that the responsible law enforcement officials committed the crime of torture and ill-treatment and could not be left unpunished. The Office of the Chief Prosecutor of the Court of Appeal refused a "revision of decision" request by the law enforcement personnel. According to the Government, the Criminal Court of Manisa is now obliged to revise the case and sentence the law enforcement personnel to imprisonment for a minimum period of 14 to a maximum period of 70 years' imprisonment. The first hearing was held on 28 December 1999. The Government also reported that the Medical Doctors' Association of Manisa had asked for a decision to suspend the doctors who had issued erroneous medical reports on the state of health of the young people after they had been released from custody periods ranging from three to six months, a proposal which had subsequently been adopted by the Turkish Association of Medical Doctors.

Uruguay

91. By letter dated 21 January 2000, the Government responded to the cases that the Special Rapporteur had communicated to it on 12 October 1999 (see E/CN.4/2000/9, para. 1120).

92. The Government stated in its reply that Francisco Saavedra and Luis Sora, because of an incident on the public highway involving police officers, were arrested on 23 May 1999 and ill-treated by the latter. The examining magistrate confirmed the facts and on 31 August 1999 ordered the prosecution of the police officers without detention for abuse of authority.